

Application/Control Number: 10/583336
Art Unit: 2811

DETAILED ACTION

Election/Restrictions

Claims 1-3, 6-7 and 9-23 are directed to an allowable product. Pursuant to the procedures set forth in MPEP § 821.04(B), claims 9-10, directed to the process of making or using an allowable product, previously withdrawn from consideration as a result of a restriction requirement, claims 9-10 hereby rejoined and fully examined for patentability under 37 CFR 1.104.

Because all claims previously withdrawn from consideration under 37 CFR 1.142 have been rejoined, **the restriction requirement as set forth in the Office action mailed on 2/1/2008 is hereby withdrawn**. In view of the withdrawal of the restriction requirement as to the rejoined inventions, applicant(s) are advised that if any claim presented in a continuation or divisional application is anticipated by, or includes all the limitations of, a claim that is allowable in the present application, such claim may be subject to provisional statutory and/or nonstatutory double patenting rejections over the claims of the instant application. Once the restriction requirement is withdrawn, the provisions of 35 U.S.C. 121 are no longer applicable. See *In re Ziegler*, 443 F.2d 1211, 1215, 170 USPQ 129, 131-32 (CCPA 1971). See also MPEP § 804.01.

Reason for Allowance

Claims 1-3, 6-7, and 9-23 allowed.

Claims above allowed over the references of record because none of these references disclosed or can be combined to yield the claimed invention such as “a first layer which is in contact with the substrate is composed of silicon-doped $\text{Al}_x\text{Ga}_{1-x}\text{N}$...

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and has a structure formed of aggregated columnar crystal grains having a width of 10 to 50 nm.”, as recited in claim 1 and “a said first layer which is in contact with the substrate is composed of $\text{Al}_x\text{Ga}_{1-x}\text{N}$..., and the difference in height between a protrusion and a depression which are present at the interface between the first layer and the second layer provided thereon is 10 nm or more and is equal to, or less than, 99% the thickness of the first layer.”, as recited in claim 3.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance

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Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to TRANG Q. TRAN whose telephone number is (571)270-3259. The examiner can normally be reached on Mon - Thu (9am-5pm).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lynne A. Gurley can be reached on 571-272-1670. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/T. Q. T./
Examiner, Art Unit 2811
/Cuong Q Nguyen/
Primary Examiner, Art Unit 2811